THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITIONS No.22759, 22783 AND 22818 OF 2005

24.10.2005

Between:

Mrs.Taamina Layeeq Ali, W/o.Mr.Mohd Layeeq Ali, represented by her

G.P.A. Mohd Parvez Ali, New Malakpet, Hyderabad

And others

… Petitioners

AND

1. The District Collector, Hyderabad

and others

… Respondents

COMMON ORDER:

In these three writ petitions, petitioners are allegedly owners of properties in New Malakpet, Hyderabad. They are aggrieved by the notification issued by the first respondent under Section 4(1) of Land Acquisition Act, 1894 (the Act, for short) proposing to acquire a portion of their property/premises for public purpose to wit… for construction of flyover at Nalgonda X Roads, New Malakpet, Hyderabad. They seek a Writ of Certiorari and to quash the impugned notification.

Learned Counsel for petitioners, Sri P.C.Yadav, raised two contentions. First, he contends that initially the Municipal Corporation of Hyderabad (MCH) issued a letter on 18.8.2005 requesting the petitioners to cooperate and handover advance possession to enable MCH to proceed with construction of flyover, that aggrieved by the same, the petitioners filed writ petitions being W.P.Nos.102447, 102447 and 19620 of 2005 and they are pending and therefore with *mala fide* intention the respondents initiated proceedings under the Act. Secondly, he would urge that enquiry under Section 5-A of the Act was dispensed with in a routine manner, though there is no urgency. He would submit that notification is dated 26.9.2005 but so far the respondents have not taken any steps for construction of flyover.

Even according to the learned Counsel for petitioners, aggrieved by the letters addressed by MCH the petitioners filed writ petitions, which are pending. This Court did not prohibit or injunct the respondents from initiating action under the provisions of the Act. Secondly, under the provisions of Hyderabad Municipal Corporation Act, 1955 (HMC Act, for short), it is open to the MCH to acquire the land either by negotiations under Section 146 of HMC Act or by initiating proceedings under the Act. It appears that when the petitioners declined to give their consent for acquisition, the MCH approached the first respondent, who issued notification dated 26.9.2005 proposing to acquire the petitioners' property/premises. Therefore, mere

filing of the writ petitions by the petitioners challenging the letters addressed by the MCH does not in any manner bars the respondents from proceeding further under the provisions of the Act.

The submission that there is no urgency and therefore enquiry under Section 5-A of the Act ought not to have been dispensed with is without any basis. In a city like Hyderabad where there are everyday traffic problems, there is any amount of urgency for widening the roads and construction of flyovers for smooth flow of traffic on the roads. Secondly, immediately after issuing notification on 26.9.2005, it is too much to expect the authorities to straight away construct flyover. There are number of formalities to be completed before taking possession and that may be one reason why the further action was not taken. The submission is therefore misconceived.

The writ petitions are devoid of merits and are, accordingly, dismissed. No costs.

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October 24, 2005. (**V.V.S.RAO,J**)

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